IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

MFA.No. 659 of 2001(B)

MVOP.1763/1993 of SPL.COURT FOR EC ACT CASES &MACT,TSR
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APPELLANT:

SIVAKUMAR, S/O.KUNDULLY PULIYAKKALATHU MADHAVAN,
KOTTANAD DESOM, PATTITHARA VILLAGE, OTTAPPALAM TALUK.

BY ADV. SRI.LELLULAL T.G.THUNDATHIL
SRI.BOBBYMATHEW KOOTHATTUKULAM
SRI.LATHEESH SEBASTIAN

RESPONDENTS:
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1. N.P.MANI, S/O.K.RAMAN NAIR, VIJAYA MANDIRAM,
KOOTTANAD P.O., PALAKKAD DISTRICT.

2. G.RAEHAKRISHNAN, S/O.GANGADHARAN NAMBIAR,
NAYATTIL PUKAVAYIL HOUSE, AMMAKKAVU DESOM,
KOOTTANAD P.O., PALAKKAD DISTRICT.

3. ORIENTAL INSURANCE CO.LTD., THRISSUR.

BY ADV. SRI.P.G.PARAMESWARA PANICKER
SRI.SANTHEEP ANKARATH
SRI.MATHEWS JACOB (SR.)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO. 659 OF 20O1

Dated this the 11th day of December, 2007

JUDGMENT

Koshy, J.

The appellant-petitioner met with an accident and suffered fracture to left tibia. Since he was a gratuitous passenger in a goods vehicle, the Insurance Company was exonerated and the Tribunal assessed Rs.31,000/- as the compensation payable with 10% interest from the date of petition, i.e., 15.10.1993 till the date of payment. The award was passed only in 1999 and the owner was directed to deposit the same. Considering the nature of injuries and the total amount awarded, including the rate of interest, we are of opinion that no enhancement is necessary. Since the accident was prior to the amendment of the Motor Vehicles Act, the petitioner is not entitled to claim compensation from the Insurance Company as he was a passenger in a goods vehicle. We see no reason to interfere with the award passed by the Tribunal. The appeal is dismissed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.659 OF 2001

JUDGMENT

11.12.2007